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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,567

02/19/2004

Thomas Cogliano

A-8649

1705

7590 06/13/2007  
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EXAMINER
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DUFFY, DAVID W

ART UNIT	PAPER NUMBER
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3714

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06/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/780,567

Applicant(s)

COGLIANO ET AL.

Examiner

David W. Duffy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02/19/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/19/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: Pg. 3, line 10: "would be shown" has improper tense agreement. Suggested correction is, "are shown". Line 33: "participants" is not possessive. Suggested correction is "participants' ". Pg. 5, Fig 7 description: "attempts" is improper. Suggested correction is "attempting". Pg. 11, line 26: "participant's" is not plural as it should be. Suggested correction is "participants' ". Line 31: "device shown for" is incorrect. Suggested correction is "device can be shown for". Pg. 12, line 27: "number of round" should be "number of rounds". Pg. 14, line 32: "ore" should be "more".

Appropriate correction is required.

### ***Claim Objections***

2. Claim 2 is objected to because of the following informalities: The limitation "with device" in line 2 of the claim should be "with a device". Appropriate correction is required.

3. Claim 14 is objected to because of the following informalities: The claim is dependent from claim 1 as filed, which makes the claim identical to claim 11. Examiner assumes that applicant intended to depend from claim 12 and is examining as such. Appropriate correction is required.

4. Claim 19 is objected to because of the following informalities: The limitation "an augmented a portion" in line 15 of the claim is improper. Suggested correction is "an augmented portion". Appropriate correction is required.

5. Claim 21 is objected to because of the following informalities: The limitation "with device" in line 2 of the claim should be "with a device". Appropriate correction is required.
6. Claim 23 is objected to because of the following informalities: The claim is dependent from claim 1 as filed, which makes it identical to claim 4. Examiner assumes that applicant intended to depend from claim 19 and is examining as such. Appropriate correction is required.
7. Claim 28 is objected to because of the following informalities: "gam" in line 1 of the claim should be "game". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3, 5, 7, 8, 12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hainey II (US 2001/0038999).
10. In regards to claim 1, Hainey II discloses a drawing system with a touch sensitive display screen, a processor, memory and a program that sequentially reveals parts of a drawing for the user to complete the drawing (par 9 and figs 7-17) and allows for a stylus input device to be used with the display (par 7).

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11. In regards to claim 2, Hailey II discloses that the system does not reveal the next section to draw until the user has completed the first (par 41). Examiner contends that this is an implicit disclosure of comparing the drawn portion to the ideal.
12. In regards to claim 3, Hailey II discloses showing a fragment of the whole image on the display screen (figs 7-17).
13. In regards to claim 5, Hailey II discloses a stylus, which is a pointer (par 7).
14. In regards to claim 7, Hailey II discloses the game controller as within the game unit (par 9).
15. In regards to claim 8, Hailey II discloses speakers (par 34)
16. In regards to claim 12, Hailey II discloses showing the entire image before removing the entire image for the user to recreate (figs 7-14 and par 41)
17. In regards to claim 15, Hailey II discloses a drawing system with a touch sensitive display screen, a processor, memory and a program that sequentially reveals parts of a drawing for the user to complete the drawing (par 9 and figs 7-17), allows for a stylus input device to be used with the display (par 7). Hailey II further discloses that the system does not reveal the next section to draw until the user has completed the first (par 41). Examiner contends that this is an implicit disclosure of comparing the drawn portion to the ideal.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 4, 6, 9-14, 16-18, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hainey II (US 2001/0038999).

20. In regards to claim 4, Hainey II discloses the system as described above for claim 1. Hainey II seems to lack explicitly disclosing the use of a timer. However, timers are well known in the art of gaming and would have been an obvious modification to provide a challenge to the user.

21. In regards to claim 6, Hainey II discloses the system as described above for claim 1. Hainey II seems to lack explicitly stating the use of dials instead of a stylus to provide drawing input. However, it is noted that such an input is well known in the art of drawing devices as applicant has noted by the reference to the ETCH-A-SKETCH product and would have been an obvious modification to make still in keeping with the intent of the drawing system of Hainey II.

22. In regards to claims 9-11 and 14, Hainey II discloses the system as described above for claim 1. Hainey II further discloses that the system may be based around a portable computer (par 32) and include USB (par 31). Hainey II seems to lack explicitly stating the use of a keyboard, a microphone or voice recognition. However, keyboards, microphones and speech recognition are all known types of computer inputs and would have been obvious variants to provide to the system for those that prefer other inputs or require alternatives to the stylus.

23. In regards to claim 13, Hainey II discloses the invention as detailed above.

Hainey II seems to lack explicitly disclosing how long the completed image is displayed

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before removed. However, the length of time the image is shown would be left to the discretion of the designer and would be easily changeable by those skilled in the art to whatever time the player or designer desired.

24. In regards to claim 16, Hainey II discloses projecting a more complete scene onto the display as the player works on the drawing. Hainey II seems to lack explicitly stating that the revealing is dependant on the time taken by the player while incorrectly completing the scene. However, examiner takes OFFICIAL NOTICE that providing hints when players are not getting the right answer is notoriously well known in the art of gaming especially for trivia games and would have been an obvious modification to make to provide more assistance to the user to finish the drawing.

25. In regards to claim 17, Hainey II discloses sequentially revealing additional segments of the drawing until the scene is complete (figs 7-17).

26. In regards to claim 18, Hainey II discloses the speaker output, but seems to lack explicitly disclosing the production of an output when the scene is complete. However, examiner takes OFFICIAL NOTICE that providing an audible notification of the completion of a puzzle is notoriously well known in the art of gaming and would have been an obvious modification to enhance the user's enjoyment of the completion of the drawing.

27. In regards to claim 29, Hainey II discloses the system as described above. Hainey II seems to lack disclosing spinning the user before the drawing. However, the concept of spinning the user is known in the art of games (i.e. piñata, variations on t-

ball, pin the tail on the donkey, etc) and is an obvious variation to increase the challenge of the game.

28. In regards to claim 30, Hainey II discloses the system as described above.

Hainey II seems to lack disclosing having the user draw with their off-hand. However, it is known that most people are dominant with one hand and it would be obvious to make them use their off-hand to increase difficulty.

29. Claims 19-23 and 26-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Hainey II in view of Tetris and Dr. Mario Instruction Booklet.

30. In regards to claim 19, Hainey II discloses a drawing system with a touch sensitive display screen, a processor, memory and a program that sequentially reveals parts of a drawing for the user to complete the drawing (par 9 and figs 7-17) and allows for a stylus input device to be used with the display (par 7). Hainey II seems to lack explicitly disclosing the use of hindrances in the completion of the drawing.

31. In related gaming prior art, Tetris and Dr. Mario teaches hindering yourself (pg 9, B-Type game obstacles) as well as the other players (pg 12 and pg 21). One skilled in the art would recognize the advantages of providing direct inter-player actions to an otherwise single person game as well as increased difficulty when playing alone.

32. Therefore it would have been obvious to one skilled in the art at the time to provide for the ability for players to hamper themselves or others when playing the game to increase enjoyment and competitiveness.

33. In regards to claim 20, Hainey II discloses drawing on the display screen with a stylus (par 7).



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34. In regards to claim 21, Hailey II discloses that the system does not reveal the next section to draw until the user has completed the first (par 41). Examiner contends that this is an implicit disclosure of comparing the drawn portion to the ideal.

35. In regards to claim 22, Hailey II discloses showing a fragment of the whole image on the display screen (figs 7-17).

36. In regards to claim 23, Hailey II discloses the invention as detailed above. Hailey II seems to lack explicitly disclosing how long the completed image is displayed before removed. However, the length of time the image is shown would be left to the discretion of the designer and would be easily changeable by those skilled in the art to whatever time the player or designer desired.

37. In regards to claims 26-28, the combination of Hailey II in view of Tetris and Dr. Mario Instruction Booklet discloses the system as described above, but seems to lack explicitly discloses paper to draw on or paint. However it is noted that from the applicant's description that while the water and finger paints are called hindrances, they merely function as alternative methods of creating the picture. As both types of paints as well as paper are all notoriously well-known art supplies that may be used to create a picture, all of these variations would be obvious as they are merely different ways to create a picture.

38. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hailey II in view of Tetris and Dr. Mario Instruction Booklet as applied to claim 19 above, and further in view of Christen (US 5208987).

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39. Hainey II in view of Tetris and Dr. Mario Instruction Booklet discloses the combination as made for claim 19 above. The combination seems to lack a vibrating pen as an input.

40. In drawing related prior art, Christen discloses a vibrating pen that is useful in the field of toys and games to produce amusing and interesting drawings (1:17-19). One skilled in the art would recognize the difficulty in drawing with a moving object.

41. Therefore it would have been obvious to one skilled in the art at the time to use the motorized pen with the combination made for claim 19 to further add difficulty to the system.

42. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hainey II in view of Tetris and Dr. Mario Instruction Booklet as applied to claim 19 above, and further in view of Kindschuh (US 6206521).

43. Hainey II in view of Tetris and Dr. Mario Instruction Booklet discloses the system as described above for claim 19. The combination made seems to lack the disclosure of three-dimensional glasses. It is noted that applicant's specification lists three-dimensional glasses and vision distorting glasses as equivalent vision impairment devices.

44. In related prior art, Kindschuh discloses vision-impairing goggles that do not allow the wearing to adjust to the distortion thus making activities more difficult (2:1-8 and 2:34-48). One skilled in the art would recognize the difficulty in doing vision related tasks while using the goggles.

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45. Therefore it would have been obvious to one skilled in the art at the time to add the goggles to the drawing system of Hainey II to add to the difficulty of the system making a more challenging game.

46. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hainey II in view of Christen (US 5208987).

47. Hainey II discloses the system as described above for claim 15. Hainey II seems to lack a vibrating pen.

48. In drawing related prior art, Christen discloses a vibrating pen that is useful in the field of toys and games to produce amusing and interesting drawings (1:17-19). One skilled in the art would recognize the difficulty in drawing with a moving object.

49. Therefore it would have been obvious to one skilled in the art at the time to use the motorized pen with the combination made for claim 19 to further add difficulty to the system.

50. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hainey II in view of Kindschuh (US 6206521).

51. Hainey II discloses the system as described above for claim 15. Hainey II seems to lack the disclosure of vision distorting goggles.

52. In related prior art, Kindschuh discloses vision-impairing goggles that do not allow the wearing to adjust to the distortion thus making activities more difficult (2:1-8 and 2:34-48). One skilled in the art would recognize the difficulty in doing vision related tasks while using the goggles.

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53. Therefore it would have been obvious to one skilled in the art at the time to add the goggles to the drawing system of Hainey II to add to the difficulty of the system making a more challenging game.

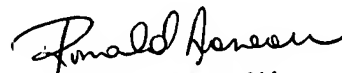
**Conclusion**

54. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6676411 and US 6572378 Rehkemper et al. directed to drawing programs. US 6238217 to Mirando et al directed to an electronic coloring book. US 5630754 and US 5465982 to Rebane directed to a scene identification game. US 5056793 to Sigle directed to a picture identification game. US 20050106538 to Freeman et al. directed to a drawing aide.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David W. Duffy whose telephone number is (571) 272-1574. The examiner can normally be reached on M-F 0800-1630.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

DM

  
RONALD LANEAU  
PRIMARY EXAMINER  
6/8/07